

PROPOSED JOINT EXHIBIT 1

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In The Matter of the
Application of

HERBERT L. SCHOENBOHM
Kingshill, Virgin Islands

For Amateur Station
and Operator Licenses

)
) WT Docket No. 95-11
)
)
)
)
)
)

To: Administrative Law Judge Edward Luton

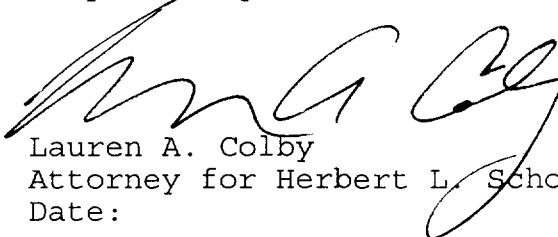
STIPULATION

The Chief, Wireless Telecommunications Bureau (Bureau), by
her attorneys, and the applicant, by his attorney, make the
following stipulation:

Federal Communications Commission	
Docket No.	95-11
Exhibit No.	Joint 1
Presented	Joint
Disposition	Identified <input checked="" type="checkbox"/>
	Received <input checked="" type="checkbox"/>
	Rejected <input type="checkbox"/>
Reporter	PR
Date	9-1-97

The attached document is an essentially accurate transcription of a tape recording of amateur radio communications and off-the-air commentary. The recording was made by Mr. Henry P. Miller on April 5, 1987, on or about April 12, 1987, and on a subsequent date.


Respectfully Submitted,



Lauren A. Colby
Attorney for Herbert L. Schoenbohm
Date:

Michelle C. Farquhar
Chief, Wireless Telecommunications Bureau

By:



Thomas D. Fitz-Gibbon
Attorney
Date: February 25, 1997



Terrence E. Reidler
Attorney
Date: February 25, 1997

TRANSCRIPT

The following is a transcript prepared from audio tapes of amateur radio transmission recorded on the frequency 146.910 MHz by Henry P. Miller on April 5, 1987, on or about April 12, 1987, and on a subsequent date. The voices heard on the recording are:

Herbert L. Schoenbohm - KV4FZ

Antonio J. Benvenuti - KV4BA

Daniel D. Worely - KP4CD

Henry P. Miller - KP2J (Comments heard on the tape but not transmitted over the air -- shown in italics)

David Ackley - W4UWH (Not heard over air; recording picked up part of telephone conversation with Henry P. Miller, which was occurring during the taping -- shown in italics.)

April 5, 1987

KV4FZ: ... installing those and it is really quite a nice system.

KV4BA: Is it going to be hooked on to the local system here?

KV4FZ: Well, it's just hooked up to, on to the Cable and Wireless thing, over in Tortola. That's the one already in operation, uh, in uh, Tortola, to their system. And, of course, you can be -- really fine high quality equipment but, when they first started their operation, they were having some interference problems, uh, uh, a signal coming out of St. Thomas, that was, uh, locking up their system. I did some DFing and, uh, found out where it was coming from and filed a complaint with the FCC. (phone ringing) Go ahead.

KV4BA: That's interesting. That is interesting. Uh, I met, uh, I met a guy down the street the other day and he was telling me about, uh, installing, uh, so called cellular telephones in, uh, in mobiles. Is that true?

KV4FZ: Well, there, there is somebody trying to do that in St. Thomas, but it's consumer fraud because it is not cellular telephone and they are not supposed to have a telephone system. That's a UWH character. It's illegal for that to operate as a pseudo cellular. It's really a mobile radio being operated as a common carrier, but I imagine that'll, that'll get busted. I wouldn't, I wouldn't be a bit surprised if he got a pretty hefty fine out of it too.

KV4BA: Oh, now, now, now, KV4FZ from KV4BA. Now I remember, yeah, yeah, some time ago. It was last year, before I got here. It was way before uh, uh, an industrial fair that, uh, occurred over there at the Reef, here in St. Thomas, the Reef Hotel. And uh, that's right, a friend of mine, uh, a friend of mine was going to install, uh, one of those, uh, telephones in his cars, and uh, we went to see it. Both of us went to see it and, uh, there was a guy there. I forget his name. He was uh,uh Raymond Wuntz [phonetic spelling] and, uh, he showed it to us and then uh, I realized that, uh, the whole thing was, uh, illegal. It wasn't, uh, as advertised. Plus anybody can listen in to it. Go ahead.

KV4FZ: Absolutely. That's why one of the things that, uh, has

an element of question because, first of all, it's not legal to have a tele -- mobile telephone service, uh, as it is on a radio telephone car phone or whatever. These, these people are operating a quasi and it, uh, I imagine the Commission will stop them, if not fine them -- close down the whole operation and then -- In fact I was in a government office the other day and they had an order for one -- had a purchase order being prepared and I gave them the information. They canceled the order right then and there. The, the thing is, is that the number, as you pointed out, is not secure communication, and is being operated as a telephone service on a mobile, trunked mobile - a YB. The FCC classification of that is "Yankee Bravo," and it is not a common carrier service. And the fact anybody anywhere in the world can just sit down here in the phone and just dial up a number. Hold it just a minute I want to check. (Dial tone) I'll give you a number. Let's see. What is it? 68706. I'll try one, just try one, 68706. (Dialing) See what happens. (Ring). Ok. Well, that is a -- As soon as I did that a UHF transmitter came up on approximately 800, 817 MegaHertz and started transmitting. Uh, anybody in the world can call these numbers. Let's see 8 -- Let me try another one. (Dial tone) 86740, 86740 Let me try another one (Rings) (Voice answers "Thank you for calling Doctor... office." KV4FZ hangs-up.) No, that's the wrong one. (Dial tone) Try 86741 (Rings) (Voice answers "Hello." KV4FZ hangs-up.) Well, that's the wrong one. (Dial tone) 86730. Try one. (Beeps) No. Ha, ha. It's 68740. Try that one. You probably got a block of numbers and anybody can call those numbers and make a UHF transmitter come on the air (Beep) without it being controlled and speak to somebody with a phone in their car. Of course, that's a violation of FCC rules and regulations right there and then. (Beep, dial tone, touch dialing tones) Try that one. (Beep, pulse dialing) Nothing's happening. (Beep, dial tone) Let me try another one. 68752. Just picking these numbers at random. No. 68752 (Beeps pulses) (Rings) (Voice answers "Hello." KV4FZ hangs up. Dial tone) Yeah, you're getting through to a (Electronic ring) -- on all those numbers you're getting through to a circuit which makes the transmitter come on the air and connects directly to somebody that's got one of these radios in their car and that's illegal. You can't use the trunked business frequency for a cellular car telephone service, Tony. KV -- and a whole block of numbers 68700 through 68760 approximately. There are probably a few numbers in there that were issued before, but there is a block of numbers you can dial any one of

go on the air which is in violation of FCC rules.
KV4BA, KV4FZ.

KV4BA: So you block ah.. 687

KV4FZ: Yeah. 68700 to 6875 -- 68760 but every time you call those numbers, uh, somebody gets charged 50 cents. Or 40 cents. I think it's 40 cents. Every time you call Hahu. Somebody, somebody gets charged 40 cents. Obviously that's a common carrier service. Right?

KV4BA: Yeah, that's right.

KV4FZ: I wonder if consumer protection ought to find out about that because that's consumer fraud -- offering a telephone service when you can't legally have a license for one.

KV4BA: Yeah, that was one of the reasons I, uh, I had my friend desist of the idea.

KV4FZ: Who's in charge of, of consumer right now? Is that Delegard?

KV4BA: I don't know. That's, uh, they've been having so many changes lately (laughs) you don't know who's on, in the chair.

KV4FZ: Well, if you hear anybody in the government planning to buy one of these let me get, get to them. Maybe I'll put out a memo to the effect. Put out a warning. Put out a general notice to the public. A caveat: Be aware of being offered a telephone for your vehicle when, in fact, it is not and it can't legally offer that.

KV4BA: That would be the best way. That would be the best way. And, of course, of course include the internal memo.

KV4FZ: Yeah. In fact, I'll, I'll include the memo from the Federal Communications Commission Common Carrier Bureau too on that subject.

KV4BA: Yeah. That's right. Put a photo -- photostat of the rules on that.

KV4FZ: But apparently some people feel that down here in the Virgin Islands that nobody would ever know. But they already got a complaint because of the jamming that was going on to the legal cellular radio system that's operating out of Tortola that had these carriers coming

up and causing the thing to time out. That went on for several months.

KP4CD: Herb?

KV4FZ: Yeah, go ahead, Dan.

KP4CD: What does his license say he can use that frequency for? I'm sure he's got it licensed. KV4FZ, KV4BA, KP4CD.

KV4FZ: Trunked business only. Trunked business only.

KP4CD: Well, I, uh ... note to the field office ought to uh, uh have some effect.

KV4FZ: Yeah. But, it's got to go through, to the common carrier bureau first. And certainly it has a -- There is a cellular service coming to the island and, of course, there's a financial thing there too where he would destroy the market place, poison the well so to speak, before a legal cellular system could get established.

KP4CD: Yeah, well, we'll see about that. We'll see about that.

KV4FZ: Yeah, if you see any of these in Tortola, anybody operating those units in Tortola making calls to the United States of America, try to find out who they are. I've got a listing of a lot of the patrons that are using that service right now, and many of them are not licensed -- don't have any licenses -- you just go out and buy the radio and rent it on a temporary basis and then I guess he applies for a license but it's not a cellular telephone license. It's a trunked business license, a "Yankee Bravo." And he cannot legally engage in automatic interconnect in that method. These people here, you can dial any of those numbers, Dan, 68700 to 68760. Let me try another one here. (Dial tone) Just random now. (Touch tones) There's 68711 Let me try that. (Beeps) Boy, it takes a long time. (Dial tone (Touch tones) There's 68708. (Pulses) (Rings) (Electronic ring) You hear that? I just turned a transmitter on. (Electronic ring) And anyone anywhere in the would can call those numbers and turn transmitters on. You call that legal, Dan?

KP4CD: No, sir, I don't. Good morning to you, Tony.

KV4BA: Yes, sir. Good morning, Dan. Yeah, we're listening to all the racket.

KP4CD: What are you doing, Herb, monitoring it on 800 MegaHertz with you analyzer?

KV4FZ: Affirmative.

KP4CD: That's cute. That's really cute.

KV4FZ: Sure. Anyone that dials into the telephone can bring up transmitter -- totally unlicensed operation. Right? That's what it sounds like to me.

KP4CD: He's, uh, got a business license for that. He, he should not be connecting into a telephone system for automatic connect.

KV4FZ: No. There's a way to do it. You need an operator to intercede and place the calls for you. Or you need a common carrier license. You can't, can't be both. And this is certainly not a common carrier service. It's acted -- operating as a common carrier service and operating in violation of the law as a common carrier service.

KP4CD: Well, that's what I'm saying. He's got a business license. That does not authorize him to use it for automatic connection to the telephone exchange. If he's got an operator intervening and placing the calls for him, that would probably be legal. It would be on the hazy line but, ah, it would be certainly more legal than automatic connect. An autoconnect is unauthorized for a business license. It's only authorized for a common carrier license.

KV4FZ: Yeah. That's correct, and another thing. I'm going to check on the local end of it. What about the business license? If he's got a telephone service, it's required for him to go to the public service commission to set the rate. Right, Tony?

KV4BA: That's correct. That is correct. This is KV4BA.

KV4FZ: What we got here is a telephone bypass operation and when he's operating out of Tortola, that's an international common carrier or an international tariff violation, an international treaty violation. That's heavy dues for that. Ah, they just recently got Carnival Cruise, socked them a ten thousand dollar fine -- I'm not correct -- nine thousand nine hundred ninety nine dollars and ninety nine cents for running their own circuit between the Bahamas and the United States. I wonder what they will do in this particular instance.

KP4CD: Herb, what do those radios look like? Is it a little hand-held or is it something that gets installed in the car?

KV4FZ: It's an E.F. Johnson hand-held. They pass them around. They've got a touch-tone pad on them. Made by E.F. Johnson with a funny looking antenna -- sort of like an elongated rubber ducky. And there are also the ones that are installed in the car, are also made by E.F. Johnson -- the LTR series. And, the point is, that's, that would appear to be consumer fraud if they're offering these things as car telephones. In fact, they're not. Go ahead.

KP4CD: Roger that. That sounds like, sounds like you got quite a bit of evidence there. That ought to go in somewhere. When I'm in Tortola I'll watch for things like that and, if I see any of them, I'll try to get what information I can. And, uh, pass it on to you.

KV4FZ: Yeah. And if you see Arthur, ask him about the company over there that had all that interference from St. Thomas, coming out of St. Thomas. That is a legal cellular system in Tortola. They have a license to run a cellular telephone and they supply it for boats and yachts that are out cruising there in that area. And it has to go through their phone system. They have a license for that, but try to find out from Arthur the operator. They advertise in various publications around here. But they would be very happy to know anybody using that equipment in Tortola and there are a number of people going around using it, using on their boats and from the British waters and using it there in the harbors. Making phone calls in the United States of America from a foreign source using a radio to inter -- to, to link over and that's clearly a treaty violation. There are heavy, heavy dues for that. And I'll handle the consumer fraud possibilities in this area because, especially the government is out to buy something, some equipment like that maybe is worthless. Worthless being promised as one thing and cannot be used legally that way. And they have to out and buy their stuff. What are they going to do with it after the fact. Nothing. They just wasted money. Tony, carry on with Dan. I got, ah, one of my boys is coming. He has come in here in the ham shack and needs some assistance on a little project. KV4BA, KP4CD, KV4FZ.

KP4CD: Yeah, go ahead Tony. I'll, ah, I'm gonna make a run to the kitchen and get me a pack of cigarettes and I'll be able to hear. Ah, go ahead. KV4BA, KP4CD.

KV4FZ: And another thing, Tony. Tony, you can do it if you have some spare time, is just start dialing those numbers from 68700 to 68760, ah, dial 'em one-by-one in a block if you got a touch tone phone. Put it on the autodialer if they're busy. And when somebody answers, ask them the name of their business and we'll find out who's, who is on the system real fast.

KV4BA: I have an idea, Herb.

KV4FZ: Yes, sir.

KV4BA: Ah.. put those numbers on a computer program and have the computer dial them in sequence, in a piano sequence going up and down the scale. Go ahead.

KV4FZ: Sure. Number -- one number by another number, just keep repeating them over and over to determine and have them logged in what the results are. The politicians do that. They automatically dial numbers and leave messages. I don't have that in my dial-out modem, but I've got the program for that and, if you need the program from me, I'll be glad to give it to you. Go ahead.

KV4BA: OK, fine, yeah. Give me a copy of it so I can load up the numbers or the sequences and the computer will dial them up one at a time.

KV4FZ: Yeah, that'll be interesting, and just keep repeating day in and day out. Just keep dialing those numbers.

KV4BA: Hey, you know how the sound of all of those transmitters coming on and off, on and off.

KV4FZ: Well, that's the whole point. That's not supposed to occur. When you dial a phone number you're not supposed to turn a transmitter on somewhere. And that's the whole point of why it's illegal. He'll either have to shut down his -- Yeah, he'll either have to shut down his 800 MegaHertz operation or stop jamming 91. One or the other.

KP2J: *Here's a guy who can use a telephone to talk about all this stuff -- putting it on the air for me to tape and to give to W4UWH. Just a very stupid, foolhardy man. (Comment by KP2J relating to another matter omitted).*

On or about April 12, 1987

KV4FZ: We'll dial all those for you. I've got it and I'm putting it in my attache case right now.

KP2J: (At the same time as KV4FZ) Oh, this is day one.

KV4FZ: And you are gonna have yourself some fun tonight.

KV4BA: Ha, ha, ha. That sounds good.

KV4FZ: Now just put in 776-8700 to 776-8760 and just 24 hours a day dial those numbers until you get some kind of response.

KV4BA: Yeah. I did get some the other day.

KV4FZ: Every time, Every time you call, that guy is charged 40 cents, you know.

KV4BA: Hey, you're kidding.

KV4FZ: No, charged 40 cents every time he receives a call.

KV4BA: Holy cow! That -- that's real good.

KV4FZ: Yeah. You know, call up and ask him who he is and where he is, the name of his business, and what he's doing and just write it down and let's try another one. Keep doing it.

KV4BA: Sounds pretty good. At least somebody's paying something.

KV4FZ: Sure, you make a lot of money for, uh, for UWH when you do that. Every time you call somebody he gets 40 cents.

KV4BA: I thought he pays 40 cents.

KP2J: Ha, ha.

KV4FZ: No, he gets 40 cents until the people say listen, they're being ripped off, and say no more of this, no mas.

KV4BA: Oh, I see, I see. Yeah, yeah, yeah. That's a good twist.

KV4FZ: By the time he gets a bill for 400 dollars a month for all these calls he's gotten, and never talked to anybody, he'd like get pretty upset, wouldn't he?

KV4BA: I'd say so.

KP2J: See the extremes this guy goes to. I guess you're not hearing.

KV4BA: It's a ripoff.

W4UWH: Sure, fuck him.

KP2J: I guess you're not hearing. OK. I said this...

KV4FZ: Consumer fraud.

KP2J: ... telling this guy to put all these numbers on his computer 24 hours a day ...

KV4BA: Paid for nada.

KP2J: ... and then Dave's customers will get pissed off and drop the service.

KV4FZ: Now listen, you know it's interesting how small, insignificant people like you and I that don't amount to anything, aren't very important in the community, just -- We have recourse. That is the beautiful thing. We have recourse. We can bring down the giant. We can, we can tackle AT&T. We can tackle the -- Standard Oil. You know this is the beautiful thing in this society. We can tackle the government. I mean how one girl, by spreading her legs, can bring down an entire religious empire. This is amazing, how the kind of power that the people have when the -- that they, that they use it right. It's the David and Goliath syndrome, I guess. You've got to throw that pebble. Got to shoot that pebble. It's got to be aimed properly and at the right time at the right moment, and bragadam magada.

KV4BA: Remember the lady that, uh, she wrote a letter and she, uh, had the entire state government, uh, rescind a lot of their actions.

KV4FZ: That's true. Hey, Tony. I'll get you in a little bit. Hang on just a minute. I got a phone call. I'll be back with you later on. KV4BA, KV4FZ.

KP2J: ... last tie-in to the, uh, fooling around with the cellular telephone system of David Ackley. This is, uh, Mr. Worely, KP4CD, Sabana Seca, Puerto Rico, and KV4FZ's quality is not too good, so I'm trying to paraphrase it a little bit for you. He wanted to know if he tried the, uh, 800 megahertz numbers, which I believe mean the same thing. Anyway, listen to it and see what you think.

Date subsequent to April 12, 1987

KP4CD: I haven't, uh. I may give that a try here in a second.

KV4FZ: Ok, and let me know how you come up with those 800 MegaHertz things if, uh, -- I've got eight amplifiers here, a 10 watt amplifier, a Henry amplifier. You can't get any more power up there. See if that works out. KP4CD. KV4FZ.

KP4CD: Yeah, well, we'll look into that. That might help but I don't I really need it. Take care and have a good day. KP4CD now clear.

KV4FZ: Not with that military antenna that you got up there. Wow! See you later. KP4CD, KV4FZ.